

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

Antonio Cross,	)	
Plaintiff	)	NO. 13 CV 2269
	)	
vs.	)	Judge John Z. Lee
	)	
City of Chicago, et. al.	)	Magistrate Judge Mary M. Rowland
	)	
Defendants	)	

**MOTION FOR CLERK OF COURT TO REFUND FILING FEE**

NOW COMES, the Plaintiff, ANTONIO CROSS, by and through his attorney, Benjamin E. Starks of the Law Office of Starks & Associates, P.C. to Present this Motion For Clerk of Court To Refund Filing Fee.

- (1) That on March 20, 2013, a Complaint at Law was filed with the Circuit Court of Cook County, Law Division, Case# 2013 L 002882 on behalf of the Plaintiff, Antonio Cross, against the City of Chicago and Dante Servin (See Exhibit "A").
- (2) That on March 26, 2013, Liza M. Franklin, counsel for the City of Chicago, filed a Notice of Removal of the aforementioned case from the Circuit Court to the United States District Court for the Northern District of Illinois, Eastern Division (See Exhibit "B").
- (3) That on April 12, 2013, Atty. Benjamin E. Starks received a letter from the Clerk of the United States District Court notifying him that he had to pay the filing fee the opening of the transferred case (See Exhibit "C").

- (4) That on April 17, 2013, Attorney Benjamin E. Starks mailed check # 3066 in the amount of \$350.00 of which the same was deposited by the U.S. District Court on April 19, 2013 (See attached cancelled check Exhibit "D").
- (5) That on April 29, 2013, Atty. Stark's legal assistant spoke with a supervisor for the U.S. District Court ("Lorenzo) who apologized for the mistake and instructed the legal assistant of the procedure of how to get the refund of the filing fee.
- (6) That it is the responsibility of the party who filed the Notice of Removal of aforementioned case from the Circuit Court to the U.S. District Court to pay the filing fee for said Removal, to wit counsel for the Defendant.

WHEREFORE, the Plaintiff requests that this Honorable Court refund the filing fee of \$350.00 the Plaintiff's attorney, Benjamin E. Starks.

Respectfully submitted by

/S/ Benjamin E. Starks  
Benjamin E. Starks

Starks & Associates, P.C.  
11528 South Halsted  
Chicago, IL 60628  
Ph# (773) 995-7900  
Fax# (773) 995-7921  
Efax# (773) 321-0254  
Email: [starkslaws@yahoo.com](mailto:starkslaws@yahoo.com)

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, LAW DIVISION

ANTONIO CROSS,

*Plaintiff,*

v.

CITY OF CHICAGO, a municipal  
corporation, and DANTE SERVIN,  
an individual,

*Defendants.*

JURY TRIAL DEMANDED

2013L00288Z  
CALENDAR/ROOM F  
TIME 00:00  
Tort - Intentional

**COMPLAINT AT LAW**

Plaintiff Antonio Cross, by counsel STARKS & ASSOCIATES, complains of  
defendants City of Chicago, a municipal corporation, and Dante Servin, an  
individual, as follows:

FILED 8-13  
2013 MAR 20 PM 4:05  
CLERK OF CIRCUIT COURT  
LAW DIVISION

**PARTIES & JURISDICTION**

1. Plaintiff Antonio Cross lives in Cook County, Illinois.
2. Defendant City of Chicago is a municipal corporation with its principal office in Cook County, Illinois.
3. Defendant Dante Servin lives in Cook County, Illinois.
4. At all times mentioned in this complaint, defendant Dante Servin was acting under color of law and within the scope of his employment with defendant City of Chicago.
5. All events mentioned in this complaint occurred in Cook County, Illinois.

**FACTS**

6. During the early morning hours of March 21, 2012, plaintiff Antonio Cross was in the vicinity of 3100 W. 15th Place in Chicago.

7. Plaintiff Antonio Cross was walking westbound on the sidewalk buttressing 15th Place with some other individuals including Rekia Boyd.

8. At that time and place, defendant Dante Servin approached the group in his vehicle.

9. Defendant Dante Servin identified himself as a police officer and brandished a firearm.

10. Defendant Dante Servin intentionally aimed the barrel of his firearm in plaintiff Antonio Cross' direction and intentionally fired several bullets.

11. One of those bullets struck Rekia Boyd in the head; another struck plaintiff Antonio Cross in the hand.

12. Plaintiff Antonio Cross sustained severe and disabling personal injuries as a result of the bullet that defendant Dante Servin fired.

13. At all times mentioned in this complaint, plaintiff Antonio Cross was unarmed.

14. At all times mentioned in this complaint, plaintiff Antonio Cross did not pose any risk of imminent harm to defendant Dante Servin.

15. At all times mentioned in this complaint, plaintiff Antonio Cross did not appear to pose any risk of imminent harm to defendant Dante Servin.

16. On information and belief, defendant Dante Servin furnished false information concerning the events leading up to the shooting, which caused criminal proceedings to be commenced against Antonio Cross and which caused Antonio Cross' arrest.

17. Plaintiff Antonio Cross was arrested, jailed, and prosecuted for aggravated assault.

18. The criminal proceedings against plaintiff Antonio Cross were terminated in a manner indicative of his innocence in that no witnesses appeared to testify against him.

19. As a result of being shot in the hand, maliciously arrested and prosecuted, and witnessing the shooting of Rekia Boyd, plaintiff Antonio Cross has suffered severe mental distress.

**COUNT I – BATTERY**  
(v. DANTE SERVIN)

20. Plaintiff re-alleges paragraphs 1–19 of this Complaint as if fully set forth herein.

21. Defendant Dante Servin intentionally caused an unconsented harmful contact to Antonio Cross' person in that Dante Servin intentionally shot Antonio Cross.

22. As a direct and proximate result of defendant Dante Servin's intentional conduct, Antonio Cross sustained physical pain and damage, severe and disabling injuries, and severe emotional distress.

WHEREFORE, plaintiff Antonio Cross asks for judgment against defendant Dante Servin in excess of the minimum jurisdictional requirements for assignment of this case to the Law Division, plus costs.

**COUNT II – BATTERY—RESPONDEAT SUPERIOR**  
(v. CITY OF CHICAGO)

23. Plaintiff re-alleges paragraphs 20–22 of this Complaint as if fully set forth herein.

24. At all relevant times, Dante Servin was acting within the scope of his employment with defendant City of Chicago, thereby rendering defendant City of Chicago vicariously liable under the doctrine of *respondeat superior*.

WHEREFORE, plaintiff Antonio Cross asks for judgment against defendant City of Chicago in excess of the minimum jurisdictional requirements for assignment of this case to the Law Division, plus costs.

**COUNT III – MALICIOUS PROSECUTION**  
(v. DANTE SERVIN)

25. Plaintiff re-alleges paragraphs 1–19 of this Complaint as if fully set forth herein.

26. Defendant Dante Servin, maliciously instituted criminal proceedings against plaintiff Antonio Cross without probable cause.

27. The criminal proceedings against plaintiff Antonio Cross were terminated in a manner indicative of his innocence.

28. Plaintiff Antonio Cross was arrested and jailed and suffered incidental and consequential damages as a result thereof.

WHEREFORE, plaintiff Antonio Cross asks for judgment against defendant Dante Servin in excess of the minimum jurisdictional requirements for assignment of this case to the Law Division, plus costs.



**COUNT IV – MALICIOUS PROSECUTION—RESPONDEAT SUPERIOR**  
(v. CITY OF CHICAGO)

29. Plaintiff re-alleges paragraphs 25–28 of this Complaint as if fully set forth herein.

30. At all relevant times, Dante Servin was acting within the scope of his employment with defendant City of Chicago, thereby rendering defendant City of Chicago vicariously liable under the doctrine of *respondeat superior*.

WHEREFORE, plaintiff Antonio Cross asks for judgment against defendant City of Chicago in excess of the minimum jurisdictional requirements for assignment of this case to the Law Division, plus costs.

**COUNT V – INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**  
(v. DANTE SERVIN)

31. Plaintiff re-alleges paragraphs 1–19 of this Complaint as if fully set forth herein.

32. The conduct of defendant Dante Servin as set forth above was extreme and outrageous. Defendant Dante Servin's conduct was rooted in an abuse of power or authority and was undertaken with intent to cause, or reckless disregard of the high likelihood that it would cause, severe emotional distress to plaintiff Antonio Cross.

33. The conduct of defendant Dante Servin in fact caused severe emotional distress to plaintiff Antonio Cross.

WHEREFORE, plaintiff Antonio Cross asks for judgment against defendant Dante Servin in excess of the minimum jurisdictional requirements for assignment of this case to the Law Division, plus costs.

**COUNT VI – INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**  
**—RESPONDEAT SUPERIOR**  
(v. CITY OF CHICAGO)

34. Plaintiff re-alleges paragraphs 31–33 of this Complaint as if fully set forth herein.

35. At all relevant times, Dante Servin was acting within the scope of his employment with defendant City of Chicago, thereby rendering defendant City of Chicago vicariously liable under the doctrine of *respondeat superior*.

WHEREFORE, plaintiff Antonio Cross asks for judgment against defendant City of Chicago in excess of the minimum jurisdictional requirements for assignment of this case to the Law Division, plus costs.

**COUNT VII – 42 U.S.C. § 1983**  
**EXCESSIVE FORCE IN VIOLATION OF THE FOURTH**  
**AMENDMENT TO THE UNITED STATES CONSTITUTION**  
(v. DANTE SERVIN)

36. Plaintiff re-alleges paragraphs 1–19 of this Complaint as if fully set forth herein.

37. By shooting plaintiff Antonio Cross when plaintiff Antonio Cross did not actually pose, nor appear to pose, a threat to defendant Dante Servin, defendant Dante Servin used excessive force in violation of the Fourth Amendment to the United States Constitution.

WHEREFORE, plaintiff Antonio Cross asks for judgment against defendant City of Chicago in excess of the minimum jurisdictional requirements for assignment of this case to the Law Division, including an award of reasonable attorneys fees pursuant to 42 U.S.C. § 1988, plus costs.



**PLAINTIFF DEMANDS TRIAL BY JURY.**

Dated: March 20, 2013.

BY: Benjamin E. Starks  
Benjamin E. Starks  
STARKS & ASSOCIATES  
*Attorneys for Plaintiff Antonio Cross*  
11528 S. Halsted Ave.  
Chicago, IL 60628  
(773) 995-7900  
Firm I.D. No. 23721

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, LAW DIVISION

ANTONIO CROSS,

*Plaintiff,*

v.

CITY OF CHICAGO, a municipal  
corporation, and DANTE SERVIN,  
an individual,

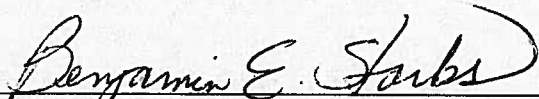
*Defendants.*

JURY TRIAL DEMANDED

ILL. SUP. CT. R. 222(b) AFFIDAVIT

The undersigned hereby states that in the above-captioned matter, plaintiff  
seeks money damages in excess of \$50,000, exclusive of interest and costs.

BY:

  
\_\_\_\_\_

Benjamin E. Starks

STARKS & ASSOCIATES

*Attorneys for Plaintiff Antonio Cross*

11528 S. Halsted Ave.

Chicago, IL 60628

(773) 995-7900

Firm I.D. No. 23721





**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
219 SOUTH DEARBORN STREET  
CHICAGO, ILLINOIS 60604**

**Thomas G. Bruton**  
CLERK

(312) 435 - 5670

March 27, 2013

Benjamin Earl Starks  
Starks & Associates, P.C.  
11528 South Halsted Street  
Chicago, IL 60628

RE: Antonio Cross vs. City of Chicago, et. al.  
USDC: 13 CV 2269, Judge John Z. Lee

Dear Counselor:

The records of this office indicate that on March 26, 2013, a notice of removal pursuant to 28 USC 1441 et seq. was filed with this court in connection with the above referenced matter. The notice lists the circuit court case number as 2013 L 002882. The documents filed with the notice of removal list you as counsel for the plaintiff.

The purpose of this letter is to inform you that the Local General Rules of this Court require that an appearance form be filed by an attorney who intends to represent a party in any proceeding before this Court. For your convenience, a copy of this form is located on the District Court web site: [www.ilnd.uscourts.gov](http://www.ilnd.uscourts.gov) under the heading 'on-line forms.'

Sincerely yours,

Thomas G. Bruton, Clerk

By: /s/ Thelma Murry-Sykes  
Deputy Clerk

tlm

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, LAW DIVISION

Antonio Cross,

Plaintiff,

vs.

City of Chicago, a Municipal Corporation  
and Dante Servin

Defendants.

Case No. 2013 L 002882

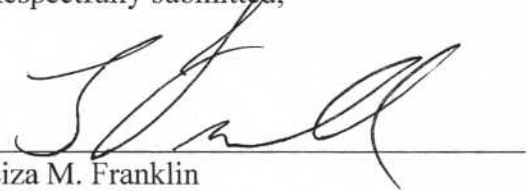
NOTICE OF REMOVAL

TO: **Benjamin E. Starks**  
**11528 S. Halsted**  
**Chicago, IL 60628**

**PLEASE TAKE NOTICE** that this action was removed to the United States District Court for the Northern District of Illinois on March 26, 2013.

**Dated:** March 26, 2013.

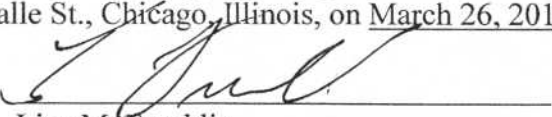
Respectfully submitted,

  
Liza M. Franklin  
Deputy Corporation Counsel

30 N. LaSalle St., Suite 900  
Chicago, IL 60602  
(312) 742-0170  
Atty. No. 90909

PROOF OF SERVICE BY MAIL

I certify, under penalties provided by law pursuant to Section 1-109 of the Code of Civil Procedure, that I served the attached document(s) by mailing a copy to each party to whom it is addressed, proper postage prepaid, from 30 N. LaSalle St., Chicago, Illinois, on March 26, 2013.

  
Liza M. Franklin  
Deputy Corporation Counsel





4. Based on the allegations of the amended complaint and for reasons set forth above, Defendants are entitled to remove this action to this court, pursuant to 28 U.S.C. §1441(a).

WHEREFORE, Defendants City of Chicago and Dante Servin respectfully request that the above-entitled action now pending in the Circuit Court of Cook County in the State of Illinois, case number 2013 L 002882, be removed therefrom to this Court.

Respectfully submitted,

/s/ Liza M. Franklin  
Liza M. Franklin  
Deputy Corporation Counsel

30 N. LaSalle St., Suite 900  
Chicago, IL 60602  
(312) 742-0170  
Atty. No. 06216088



UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
219 SOUTH DEARBORN STREET  
CHICAGO, ILLINOIS 60604

Thomas G. Bruton  
CLERK

312-435-5698

April 11, 2013

Benjamin Earl Starks  
Starks & Associates, P.C.  
11528 South Halsted Street  
Chicago, IL 60628

RE: 1:13-cv-02269; Cross v. City of Chicago, et al

Dear: Benjamin Earl Starks :

In accordance with Local General Rule 11 D, we are notifying you that on 03/26/2013 we received your complaint for filing in our office. However, we did not receive the \$350.00 filing fee or in lieu of the fee an In Forma Pauperis Application for the court to consider.

Local General Rule 11 A states that, "The clerk shall not be required to file any civil action, or to render any service for which a fee is prescribed by statute or by the Judicial Conference of the United States, until the prescribed fees have been paid."

For your information, you may pay the \$350.00 filing fee in person at the cashiers' window in Room 2064 or mail a certified check or money order payable to the U.S. District Clerk at the following address: United States District Court, Clerk's Office, 219 South Dearborn Street, Chicago, Illinois 60604. In lieu of the fee, you may submit the enclosed In Forma Pauperis Application for the court to consider.

If payment is not made within 15 days or if you do not submit an In Forma Pauperis Application in lieu of the fee, a copy of this letter will be forwarded to the Judge assigned to your case pursuant to Local General Rule 11 D.

Sincerely yours,  
Thomas G. Bruton, Clerk

By: Esperanza Arnold  
Deputy Clerk

*Mailed  
check # 3066  
on 04/17/13*


## Chase Online

BUSINESSSELECT CHKG (...1441)

Check Number: 3066

Post Date: 04/22/2013

Amount of Check: \$350.00

 <b>STARKS &amp; ASSOCIATES P. C.</b> BENJAMIN E. STARKS 11538 S. HALSTED ST. (773) 995-7900 CHICAGO, IL 60628-5218		4624 098549 3066
PAY TO THE ORDER OF <u>U.S. District Clerk</u> <u>Three Hundred &amp; Fifty</u> DOLLARS		DATE <u>04/17/13</u> 21710 \$350.00
CHASE JPMorgan Chase Bank, N.A. www.chase.com Filing fee FOR <u>Antonio Cross - 13cv 02269</u>		Signature: <u>Benjamin E. Starks</u> 3091881111 317445 4/19/13
MICR LINE: *003056* 10710000131		

Need help printing or saving this check?

FRB CLEVELAND  
 0410-3640  
 US Treas DG - 07CNE  
 04/19/2013  
 Pay to the order of  
 Federal Reserve Bank of Chicago  
 Treasurer of the United States

FOR DEPOSIT ONLY  
 U.S. DISTRICT COURT  
 NORTHERN DISTRICT OF ILLINOIS  
 CHICAGO, ILLINOIS

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Exhibit "D" page 1 of 1